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INC.

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION

PLUMTREE SOFTWARE, INC., a Delaware  
corporation,

Plaintiff,

v.

DATAMIZE, L.L.C., a Wyoming limited  
liability corporation,

Defendant.

No. 04 2777 VRW

JOINT STIPULATION AND  
~~PROPOSED~~ ORDER TO (1) REALIGN  
THE PARTIES, (2) ADD BEA AS A  
PARTY, AND (3) EXTEND CERTAIN  
DEADLINES

Plaintiff and Counter-Defendant Plumtree Software, Inc. (“Plumtree”) and Defendant and Counter-Claimant Datamize, LLC (“Datamize”) jointly submit this stipulation to: (1) realign the parties, (2) add BEA Systems, Inc. (“BEA”) as a defendant, and (3) extend certain deadlines, and in support thereof show as follows:

#### **A. Realignment Of The Parties**

The current lawsuit is styled with Plumtree Software, Inc. (“Plumtree”) as the Plaintiff and Datamize as the Defendant. Plumtree is seeking declaratory judgment that it does not infringe Datamize’s ’040 and ’418 patents and that the ’040 and ’418 patents are invalid and unenforceable. Datamize has counterclaimed for infringement. Datamize requests that the Court realign the parties such that the Datamize is the plaintiff and Plumtree is the defendant. In *Datamize, LLC v. Plumtree Software, Inc.*, CV02:05693 (VRW) (“*Plumtree I*”), the Court granted a similar request from Datamize to realign the parties to make Datamize the plaintiff (Docket No. 32). In view of the Court’s prior order, Plumtree does not oppose, and agrees to, Datamize’s request.

#### **B. Adding BEA As A Party And Extending Certain Deadlines**

Datamize also seeks leave to add BEA as a Defendant in this case. In October 2005, BEA acquired Plumtree, and Plumtree is now a wholly-owned subsidiary of BEA. Datamize contends that BEA incorporated Plumtree’s Corporate Portal product into a BEA product called Aqualogic User Interaction, and that this product infringes the ’040 and ’418 patents. Datamize also contends that a separate product called WebLogic Portal, which was developed independently by BEA, also infringes the ’040 and ’418 patents. Allowing Datamize’s claim against BEA to be joined with its claim against Plumtree would promote judicial economy, and is more likely to lead to a speedy resolution of all of the disputes between the parties.

Plumtree and BEA do not oppose Datamize’s request provided that the current schedule is extended to accommodate adding BEA as a party.<sup>1</sup> When the Court set the

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<sup>1</sup>The parties previously stipulated to, and the Court granted, an extension on the deadlines for (continued . . . )

current schedule, only Datamize and Plumtree were parties to this action. Datamize's assertions against BEA include a separate product line that BEA developed independently of Plumtree, and that was not at issue in the prior *Plumtree I* litigation. In order to account for BEA being added as a party, the parties will need additional time to conduct and complete discovery.

THEREFORE, the Parties jointly request that the Court:

1. Realign the parties so that Datamize is the plaintiff and Plumtree is the defendant;
2. Grant Datamize leave to file the attached amended complaint adding BEA Systems, Inc. as a defendant; and
3. Modify the current Case Management Order to extend the deadlines as follows:

<u>Event:</u>	<u>Date Set by March 6, 2007 Case Management Conference:</u>	<u>Proposed New Date:</u>
Fact Discovery Cutoff	November 1, 2007	April 7, 2008
Designation of Experts/Reports	November 1, 2007	April 7, 2008
Rebuttal Expert/Report	November 29, 2007	May 5, 2008
Experts Discovery Cutoff	December 31, 2007	June 9, 2008
Pretrial Conference *	Tuesday, January 15, 2008 at 9:00 a.m.	* <b>June 24, 2008 at 9:00 a.m.</b>
Jury Trial (5 days) *	Monday, February 11, 2008 at 8:30 a.m.	* <b>August 18, 2008 at 8:30 a.m.</b>

\* Subject to the Court's availability

( . . . continued)  
submitting Plumtree's opening claim construction brief and Datamize's reply claim construction brief. *See* Docket No. 69. By the present stipulation, the parties are not seeking to further extend the deadlines for claim construction briefing, or the date for the claim construction hearing (currently scheduled for August 3, 2007).

**SO STIPULATED**

DATED: July 6, 2007.

WILSON SONSINI GOODRICH & ROSATI  
Professional Corporation

By: /s/ Michael B. Levin

MICHAEL B. LEVIN

Attorneys for Plaintiff and Counterdefendant  
PLUMTREE SOFTWARE, INC.

HOWARD RICE NEMEROVSKI CANADY  
FALK & RABKIN, A Professional Corporation

By: /s/ Jeffrey E. Faucette

JEFFREY E. FAUCETTE

Attorneys for Defendant and Counterclaimant  
DATAMIZE, L.L.C.

**ATTESTATION**

I, Jeffrey E. Faucette, am the ECF User whose identification and password are being used to file this Joint Stipulation and [Proposed] Order to (1) Realign the Parties, (2) Add BEA as a Party, and (3) Extend Certain Deadlines. In compliance with General Order 45.X.B, I hereby attest that Michael B. Levin has concurred in this filing.

DATED: July 6, 2007.

HOWARD RICE NEMEROVSKI CANADY  
FALK & RABKIN, A Professional Corporation

By: /s/ Jeffrey E. Faucette

JEFFREY E. FAUCETTE

Attorneys for Defendant and Counterclaimant  
DATAMIZE, L.L.C.

**PURSUANT TO STIPULATION, IT IS SO ORDERED**

DATED: July 26, 2007

